

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STEEL WORKERS
LOCAL 12-369, STEPHANIE B.
GREEN, DAVID ROBERTS,

Plaintiffs,

v.

UNITED STEEL, PAPER AND
FORESTRY, RUBBER,
MANUFACTURING, ENERGY,
ALLIED INDUSTRIAL AND
SERVICE WORKERS
INTERNATIONAL UNION, *et al.*,

Defendants.

NO. CV-07-5053-RHW

**ORDER ADOPTING REPORT
AND RECOMMENDATIONS, in
part**

On August 17, 2009, Magistrate Judge Hutton entered a Report and Recommendation for Order Granting Motion to Compel Production, Ordering Plaintiff to Pay One-Half of the Cost of Computer Expert and Granting Sanctions (Ct. Rec. 199). Both the Local and Plaintiff Green filed Objections to the Report and Recommendation. The International did not respond to the objections.

In the Report and Recommendation, Judge Hutton recommended that the International's Motion to Compel (Ct. Rec. 171) be granted. This issue is moot, given that the trial has already occurred. Judge Hutton also recommended that the Local pay half of the cost of the International's cost in hiring an expert to search the Local's e-mail data. The Local filed objections. Mr. Younglove, in his affidavit, indicated that counsel for the Local and the International had worked out a compromise on the eve of Mr. Younglove's vacation but did not agree with respect to whether the Local should contribute toward the cost of the expert. Judge

1 Hutton found that the Plaintiffs had taken the position that production of the e-
2 mails from the Local's e-mail server would be too burdensome, and found that
3 hiring an expert to conduct the search was reasonable. The Local has not
4 challenged this finding. Rather, the Local argues that it was ambushed by the
5 request for compensation. While the Local challenges the timing of the motion, it
6 has not provided justification as to why the Court should not adopt the
7 recommendation of Judge Hutton with respect to the expense of searching the
8 Local's e-mail server.

9 The Court does not adopt Judge Hutton's recommendation with respect to
10 the sanctions of attorneys fees. Although attorney's fees may have been
11 appropriate for the motion to compel, the Court does not find that attorneys' fees
12 are appropriate with respect to the International's request for the Local to
13 contribute to its' expert's fees.

14 Accordingly, **IT IS HEREBY ORDERED:**

15 1. The Court adopts Judge Hutton's Report and Recommendation, in part.

16 2. Defendant's Motion to Compel (Ct. Rec. 171) is **DENIED**, as moot.

17 3. Local 12-369 is ordered to pay for one-half of the cost of the e-mail
18 search, including the cost of copies of documents produced to the Plaintiffs.

19 4. Motion for Order Re: Conditions of Trial in Light of Dismissal of Other
20 Individual Defendants (Ct. Rec. 481) is **DENIED**, as moot.

21 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
22 Order, and forward copies to counsel.

23 **DATED** this 12th day of April, 2010.

24
25 s/Robert H. Whaley

26 ROBERT H. WHALEY
27 United States District Judge

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